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December 12, 2014

**Via ECFS**Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554**Re: Notice of Ex Parte Presentation, In the Matter of Coral Wireless d/b/a Mobi PCS  
Request for Review of a Decision of the Universal Service Administrator, et al.; CC  
Docket No. 96-45, WC Docket No. 05-337**

Dear Ms. Dortch:

On December 10, 2014, Peter Gose, Director Regulatory Affairs of Coral Wireless d/b/a Mobi PCS ("Coral"), Sara Kuehnle, Dentons US LLP, and I met with Priscilla Delgado Argeris, Legal Advisor to Commissioner Rosenworcel, to discuss Coral's Petition for Reconsideration (the "Petition"). During the meeting, we discussed the legal and factual errors in the Wireline Competition Bureau's Order<sup>1</sup> that denied Coral's Request for Review, and emphasized the unintended harm that would result from permitting the Order to remain in effect.

Coral's Request for Review had asked the Bureau to set aside a decision by the Internal Audit Division of the Universal Service Administrative Company ("IAD") to recover universal service support from Coral based on the IAD's unsupported allegation a certain amount of the reported lines were not revenue producing. Rather than addressing the issues that Coral had raised, the Bureau exceeded the permissible scope of review by ruling on an issue that had never been addressed, or even raised, at any point in the proceeding. Specifically, the Bureau ruled that, as a matter of law, Coral could not have been providing telecommunications services using the lines at issue because Coral's terms and conditions permitted, but did not require, Coral to reroute all non-emergency calls to Coral's customer care center during the sixty-day period preceding disconnection for non-payment.

During the meetings, we discussed the unintended harm caused by the ruling in the Order that the inclusion in terms and conditions of a provision which permits, but does not require, a service provider to route calls to a location other than the dialed telephone number precludes, as a matter of law, the classification of the service as a telecommunications service. Unless the Order is reversed, any service provider will be able to evade regulation as a common carrier merely by including in its terms and conditions a provision that gives the provider the right, but not the obligation, to route calls to locations other than the dialed telephone number.

We also discussed how the Order seriously undermines customer consent and the well-established role of terms and conditions in the relationship between service providers and subscribers. Specifically, to the extent Coral routed any calls to customer care, it did so pursuant to terms that the

<sup>1</sup> *Coral Wireless d/b/a Mobi PCS Request for Review of the Decision of the Universal Service Administrator, et al.*, Order, CC Docket No. 96-45, WC Docket No. 05-337 (rel. Aug. 7, 2014) (Order).

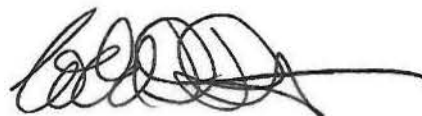
customer had accepted. As such, every call was in fact routed to the destination of the customer's choice, even if the customer made that choice long before he or she placed the call that was routed to customer care. The Order's conclusion that the customer cannot consent in advance to the routing of calls to customer care under certain conditions unnecessarily limits the options available to consumers and would harm the public by forcing service providers like Coral -- which serves many individuals who traditionally have been underserved and who face economic challenges that prevent them from receiving similar services from other providers -- to immediately disconnect service rather than giving the customer another opportunity to pre-pay for additional time before they lose their telephone number, which could further harm the customer. Many services and technologies permit customers to consent in advance to specific types of routing under certain circumstances (e.g., call management options that permit users of telecommunications services to manage call routing based on pre-selected criteria rather than solely based on dialed numbers, applications that prevent calls to certain numbers during certain times, etc.), none of which changes the legal classification of the underlying telecommunications services.

In light of these fatal flaws, the Order would have to be reversed even if call routing were within the scope of permissible review, which it is not because Coral did not raise the issue of call routing (or service classification) in its Request for Review. Moreover, since the issue of call routing had never been raised before the Order, there is no evidence on the record regarding call routing, and therefore no record evidence to support the Bureau's ruling in the Order (unless the Bureau intended to rule that the mere possibility of rerouting, even if never exercised, precludes classification of a service as a Telecommunications Service, which obviously would be another grounds for reversing the Order).<sup>2</sup>

For these reasons, the Commission or the Bureau should reverse the Order and direct the IAD to cease all efforts to recover support from Coral because no valid audit supports the IAD's recovery efforts for the reasons explained in Coral's Petition. The Commission or Bureau should also direct the IAD not to initiate a new audit, because a new audit would serve only to waste public resources since Coral significantly under-reported the total quantity of lines for which it was legally entitled to support, even if the lines at issue here were excluded.

Pursuant to Section 1.1206(b) of the Commission's rules, a copy of this letter and the attached presentations are being filed *via* ECFS for inclusion in the public record for the above-referenced proceeding. Please contact the undersigned if you have any questions or need additional information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Todd D. Daubert', with a long horizontal flourish extending to the right.

Todd D. Daubert  
*Counsel for Coral Wireless d/b/a Mobi PCS*

cc: Priscilla Delgado Argeris